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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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10 WILSON O. PETERS,

11 Petitioner,

12 vs.

13 DWIGHT NEVEN, *et al.*,

14 Respondents.

Case No. 2:14-cv-01055-RFB-VCF

ORDER

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17 This is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner, through
18 counsel, has now filed an amended petition (#8). Petitioner has also filed a motion to seal certain
19 exhibits (#13), and respondents do not oppose (#14). Good cause appearing, petitioner's motion is
20 granted.

21 **IT THEREFORE IS ORDERED** that petitioner's motion to seal exhibits (#13) is **GRANTED**.

22 **IT FURTHER IS ORDERED** that respondents shall file a response to the amended petition
23 (#8), including potentially by motion to dismiss, within **ninety (90) days** of the date of this order, with
24 any requests for relief by petitioner by motion otherwise being subject to the normal briefing schedule
25 under the local rules. **Any response filed shall comply with the remaining provisions below, which**
26 **are entered pursuant to Habeas Rule 4.**

27 **IT FURTHER IS ORDERED** that any procedural defenses raised by respondents in this case
28 shall be raised together in a single consolidated motion to dismiss. In other words, the court does not

1 wish to address any procedural defenses raised herein either in *seriatum* fashion in multiple successive
2 motions to dismiss or embedded in the answer. Procedural defenses omitted from such motion to
3 dismiss will be subject to potential waiver. Respondents shall not file a response in this case that
4 consolidates their procedural defenses, if any, with their response on the merits, except pursuant to 28
5 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If respondents do seek
6 dismissal of unexhausted claims under § 2254(b)(2): (a) they shall do so within the single motion to
7 dismiss **not** in the answer; and (b) they shall specifically direct their argument to the standard for
8 dismissal under § 2254(b)(2) set forth in Cassett v. Stewart, 406 F.3d 614, 623-24 (9th Cir. 2005). In
9 short, no procedural defenses, including exhaustion, shall be included with the merits in an answer.
10 All procedural defenses, including exhaustion, instead must be raised by motion to dismiss.

11 **IT FURTHER IS ORDERED** that, in any answer filed on the merits, respondents shall
12 specifically cite to and address the applicable state court written decision and state court record
13 materials, if any, regarding each claim within the response to the respective claim.

14 **IT FURTHER IS ORDERED** that petitioner shall have **thirty (30) days** from service of the
15 answer, motion to dismiss, or other response to file a reply or opposition, with any other requests for
16 relief by respondents by motion otherwise being subject to the normal briefing schedule under the local
17 rules.

18 **IT FURTHER IS ORDERED** that any additional state court record exhibits filed herein by
19 either petitioner or respondents shall be filed with a separate index of exhibits identifying the exhibits
20 by number. The CM/ECF attachments that are filed further shall be identified by the number or
21 numbers of the exhibits in the attachment. The hard copy of any additional state court record exhibits
22 shall be forwarded – for this case – to the staff attorneys in Reno.

23 Dated: January 16, 2015.

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26 RICHARD F. BOULWARE, II
27 UNITED STATES DISTRICT JUDGE
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